

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

EMBER IP, LLC)	
Plaintiff,)	
)	Civil Action No. 6:21-cv-01237
v.)	
)	
MOTOROLA SOLUTIONS INC.)	JURY TRIAL DEMANDED
Defendant.)	

PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Ember Licensing, LLC (“Ember”) files this Original Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 7,142,826 (“the ‘826 patent”) (referred to as the “Patent-in-Suit”) by Motorola Solutions, Inc. (“Motorola”).

I. THE PARTIES

1. Plaintiff Ember is a Texas Limited Liability Company with its principal place of business located at 3333 Preston Road STE 300 #1022, Frisco, TX 75034.

2. On information and belief, Motorola is a corporation organized and existing under the laws of the state of Delaware, with a place of business located at 2120 W. Braker Ln., Austin, TX 78758. On information and belief, Motorola sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district. Motorola can be served with process at its registered agent, Corporation Trust Center, 1209 Orange St., Wilmington, DE, 19801 or anywhere else it may be found.

II. JURISDICTION AND VENUE

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

4. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this judicial district.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and (1) "a physical place in the district;" (2) that is "regular and established;" and (3) is a "the place of the defendant." Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas and this District.

III. INFRINGEMENT

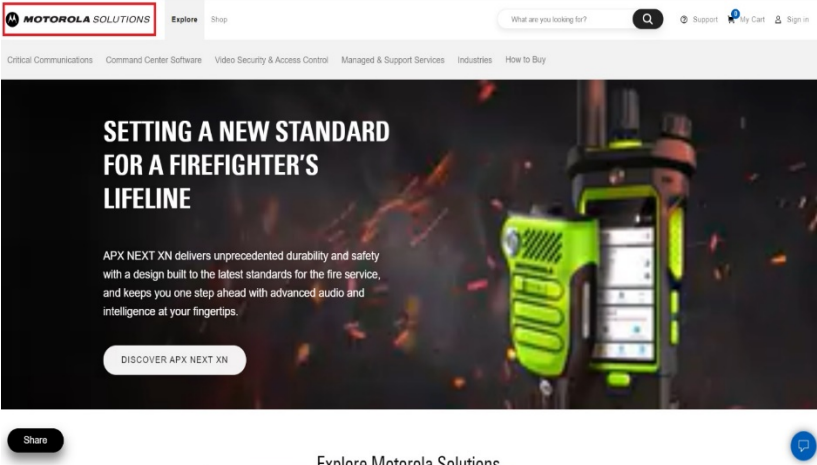
A. Infringement of the '826 Patent

6. On November 28, 2006, U.S. Patent No. 7,142,826 ("the '826 patent", included as an attachment and part of this Complaint) entitled "Portable Radio Telephone and RadioCommunication System Including Such a Radiotelephone" was duly and legally issued by the U.S. Patent and Trademark Office. Ember owns the '826 patent by assignment.

7. The '826 patent provide an apparatus and associated systems and methods for a radiotelephone.

8. Motorola designs, manufactures, markets and sells communication devices including, but not limited to, the Motorola T62 Walkie Talkie system, that infringe one or more claims of the ‘826 patent, including one or more of claims 1-15, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the ‘826 Patent into service (i.e., used them); but for Defendant’s actions, the claimed-inventions embodiments involving Defendant’s products and services would never have been put into service. Defendant’s acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant’s procurement of monetary and commercial benefit from it.

9. Support for the allegations of infringement may be found in the following preliminary table:

US7142826B2	Motorola T62 Walkie Talkie (“The accused product”)
1. Portable radiotelephone comprising at least:	<p>The accused product is a portable radiotelephone.</p>  <p>https://www.motorolasolutions.com/en_us.html</p>



https://video.motorolasolutions.com/detail/video/5728443016001/talkabout-t62-walkie-talkies-keep-you-in-touch-while-you-discover?_ga=2.7544370.1675183981.1636526248-552815545.1636526248

As shown below, the accused product is a radio telephone device.

TALKABOUT

T62 WALKIE-TALKIES

LIVE EVERY MOMENT

GO DISCOVER

KEEPING YOU IN TOUCH WHILE YOU DISCOVER

Fully featured, tough and stylish, the TALKABOUT T62 walkie-talkie is the ideal way to stay connected during outdoor adventures. At home, on the campsite, at a festival or simply hiking, the TALKABOUT T62 keeps you in touch. The easy pairing button makes setup a breeze and with USB charging, you can power up in a more convenient way. It is also license free and includes key features such as LCD display, 16 channels and up to 8 km range*, with no call charges.

KEY FEATURES

- PMR446 radios - license free
- Easy pairing
- Backlit display
- Dual power
- USB charging
- 16 channels plus 121 privacy codes**

https://www.motorolasolutions.com/content/dam/msi/docs/EA_Collaterals/ENGLISH/ConsumerRadio/talkabout_t62_datasheet_eng.pdf

RF ENERGY EXPOSURE AND PRODUCT SAFETY GUIDE FOR PORTABLE TWO-WAY RADIOS

ATTENTION!

Before using this product, read the [RF Energy Exposure and Product Safety Guide that ships with the radio](#) which contains instructions for safe usage and RF energy awareness and control for compliance with applicable standards and regulation.

Package Contents

Package Content	T62
Radio	2
Belt clip	2
Battery	2
Power Supply	1
Stickersheet(16pcs)	1
Owner's manual	1

Personalization Stickers:
Stickers are provided in order to personalize and keep track of radios. Use permanent marker for the blank stickers.

Frequency Chart

Ch.	Freq. (MHz)	Ch.	Freq. (MHz)	Ch.	Freq. (MHz)
1	446.00625	7	446.08125	13	446.15625
2	446.01875	8	446.09375	14	446.16875
3	446.03125	9	446.10625	15	446.18125
4	446.04375	10	446.11875	16	446.19375
5	446.05625	11	446.13125		
6	446.06875	12	446.14375		

Note: *Only Channels 1 to 8 are available by default. Channels 9 to 16 need to be activated by user before they can be selected. Channels 9 to 16 should only be used in countries where these frequencies are allowed by government authorities.Channels 9 to 16 are not allowed in Russia.

https://www.motorolasolutions.com/content/dam/msi/docs/products/two-way-radios/consumer/t62/t62_user_manual.pdf

a central processing unit,

The accused product comprises a central processing unit (e.g., SoC or processor of the accused product).

Upon information and belief, the accused product comprises a processor to perform call function.

Channels: 16 + 121 privacy codes**
Weight: 161 g (with belt clip and battery)
Range: Up to 10km*
Size Width: 5.4 x 16.5 x 3.1 cm

PACKAGE CONTENTS

- 2 walkie-talkies
- 2 belt clips
- Main charger with 2 micro USB plugs
- 2 NiMH rechargeable battery packs
- Personalization stickers (16pcs)
- Instruction manual

FEATURES

- Easy pairing group call function
- Backlit display
- Hands-free
- Scan / monitor
- Personalization stickers

TO LEARN MORE, VISIT US ON THE WEB AT
[motorolasolutions.com/talkabout](https://www.motorolasolutions.com/talkabout)

LIKE US ON FACEBOOK
facebook.com/MotorolaTalkaboutWalkieTalkies

ALERTS

- 20 call tones
- Keypad tones
- Talk confirmation tone/Roger beep

POWER

- Rechargeable NiMH pack (included)
- Compatible with standard AA-sized batteries

BATTERY LIFE

- NiMH 900 mAh (included) - up to 18 hours***
- NiMH 1300 mAh high capacity (optional) - up to 28 hours***

CHARGING

- Micro USB charger (included)
- Compatible with drop-in charging dock (sold separately)

FESTIVALS

PACKAGE CONTENTS

RED VERSION

- x2

BLUE VERSION

- x2

BOTH VERSIONS

- x2
- x2
- x1

https://www.motorolasolutions.com/content/dam/msi/docs/EA_Collaterals/ENGLISH/ConsumerRadio/talkabout_t62_datasheet_eng.pdf

a transmit and receive radio circuit connected to at least one antenna,

The accused product comprises a transmit and receive radio circuit (e.g., RF transceiver) connected to at least one antenna.

RF ENERGY EXPOSURE AND PRODUCT SAFETY GUIDE FOR PORTABLE TWO-WAY RADIOS

ATTENTION!

Before using this product, read the RF Energy Exposure and Product Safety Guide that ships with the radio which contains instructions for safe usage and RF energy awareness and control for compliance with applicable standards and regulation.

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4	446.04375	10	446.11875	16	446.19375
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https://www.motorolasolutions.com/content/dam/msi/docs/products/two-way-radios/consumer/t62/t62_user_manual.pdf

- English**
- finish transmitting, it is like saying "Roger" or "Over" to let others know you have finished talking.
1. Press Menu until the Roger Tone icon appears. The current setting on/off flashes.
 2. Press or to turn on or off.
 3. Press the PTT button to set or Menu to continue set up.

Keypad Lock

To avoid accidentally changing your radio settings:

1. Press and hold Key Lock until the Key Lock Indicator icon displays.
2. You can turn the radio on and off, adjust the volume, receive, transmit, send a call tone, send Emergency Alert, and monitor channels when in the lock mode. All other functions remain locked.
3. Press Key Lock and hold until the Key Lock Indicator is no longer displayed to unlock the radio.

Scanning

Use the scan function to do the following:

- Search all channels for transmissions from unknown parties.
- Find someone in your group who has accidentally changed channels or
- To quickly find unused channels for your own use.

- The "Basic Scan" mode uses the channel and code combinations for each of the channel as you have set them (or with the default code value of 1).
- The "Advance Scan" mode will scan all channels for any and all codes; detect any code in use and use that code value temporary for that channel.
- Priority is given to the "Home Channel" (i.e. the channel and Sub-Code your radio is set to when you start the scan). This means the initial channel (and code settings) is scanned more often than the other seven channels and your radio will respond quickly to any activity occurring on the home channel as a priority.

To start Basic Scanning:


1. Press the Scan/Monitor button briefly. The Scan icon will appear in the display and the radio will begin to scroll through the channel and code combinations.
 2. When the radio detects channel activities matching the channel and Sub-Code combination, the radio will stop scrolling and you can hear the transmission.
 3. Press the PTT button within 5 seconds after the end of the transmission to respond and talk to the person transmitting.
 4. The radio will resume scrolling through the channels 5 seconds after the end of any received activity.
 5. Press the Scan/Monitor button briefly to stop scanning.
- To start Advanced Scanning:**
1. Set home channel's Sub-Code to "zero" or off.
 2. Press the Scan/Monitor button briefly. The Scan icon will appear in the display and the radio will begin to

https://www.motorolasolutions.com/content/dam/msi/docs/products/two-way-radios/consumer/t62/t62_user_manual.pdf

**Internal Voice Operated Transmission/
Voice Operated Transmission (iVOX/VOX)**

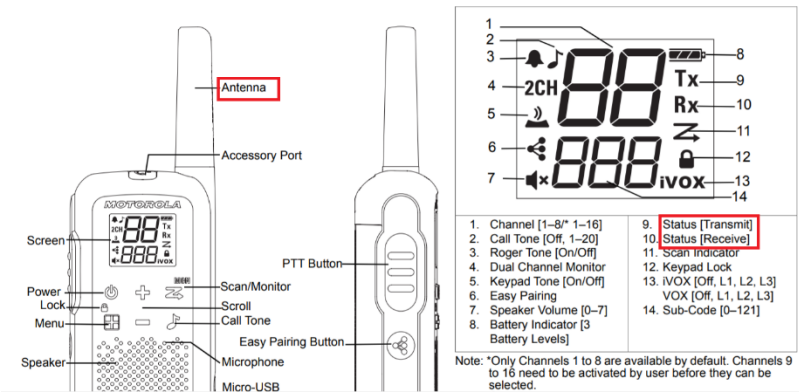
Transmission is initiated by speaking into the microphone of the radio/audio accessory instead of pushing the PTT button.

L3 = High Sensitivity for quiet environments
L2 = Medium Sensitivity for most environments
L1 = Low Sensitivity for noisy environments

1. Press  Menu until the **iVOX** icon appears on the display. When audio accessory is connected, the **VOX** icon will be shown. The current setting (Off, L1–L3) will flash.

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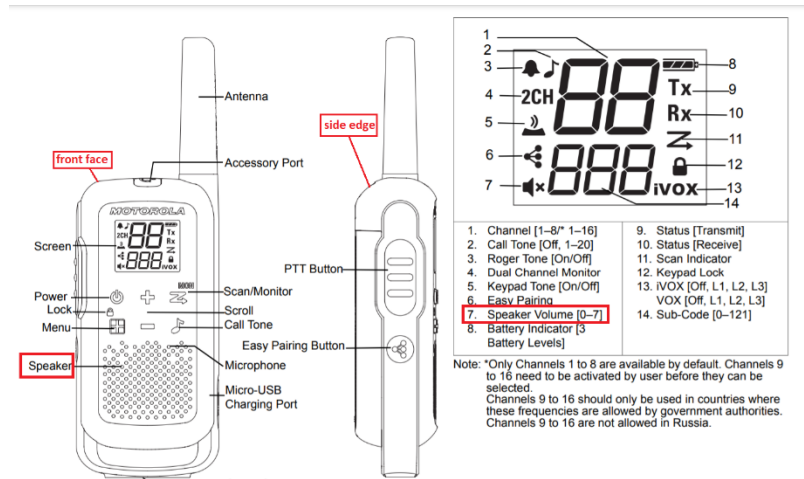
Radio Control Buttons and Display



https://www.motorolasolutions.com/content/dam/msi/docs/products/two-way-radios/consumer/t62/t62_user_manual.pdf

a front face including a speaker, an edge substantially perpendicular to the front face,

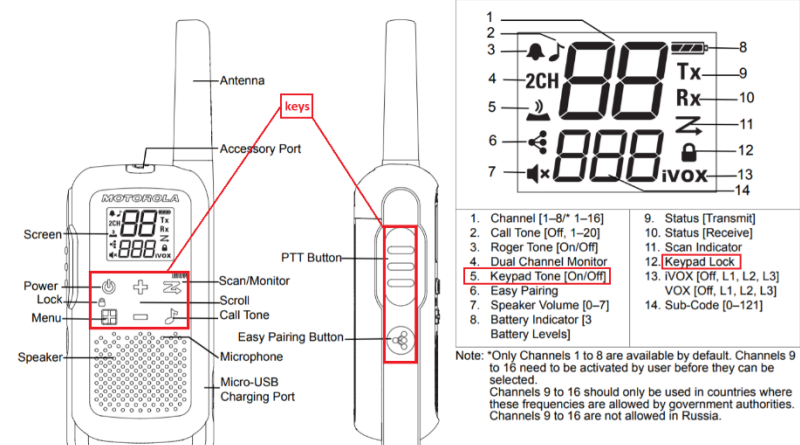
The accused product comprises a front face (e.g., a front face of the accused product) including a speaker (e.g., speaker of the accused product), an edge (e.g., side edges perpendicular to the accused product) substantially perpendicular to the front face (e.g., a front face of the accused product).



https://www.motorolasolutions.com/content/dam/msi/docs/products/two-way-radios/consumer/t62/t62_user_manual.pdf

a keypad that comprises at least one key,

The accused product comprises a keypad (e.g., keypad of the accused product) that comprises at least one key (e.g., call tone key).

	 <p>https://www.motorolasolutions.com/content/dam/msi/docs/products/two-way-radios/consumer/t62/t62_user_manual.pdf</p>
<p>and a necklace designed for placing around the neck of the user, said necklace being fixed to the portable radiotelephone in such a way that said portable radiotelephone positions itself automatically by gravity in a rest position when said necklace is worn around the neck of the user, the central processing unit being adapted to:</p>	<p>The accused product comprises a necklace designed (e.g., a lanyard) for placing around the neck of the user (e.g., a user of the accused product), said necklace (e.g., lanyard) being fixed to the portable radiotelephone (e.g., the accused product) in such a way that said portable radiotelephone (e.g., the accused product) positions itself automatically by gravity in a rest position when said necklace (e.g., lanyard) is worn around the neck of the user.</p> <p>As shown below, Motorola provides a lanyard for the accused product. The accused product can be placed as a necklace around the neck of a user with the help of lanyard. The lanyard makes the accused product at rest position by gravity.</p>

CARRY POUCH

LANYARD WITH EASY-RELEASE CLIP

BIKE MOUNT

TWIN & QUAD CARRY CASE

A close-up photograph of a hand holding a white rectangular badge. The badge features the 'LANYARDS USA' logo, which includes a stylized American flag icon to the left of the text. Below the logo, the text 'YOU NEED LANYARDS FOR YOUR NEXT EVENT' is printed in a bold, black, sans-serif font. The badge is attached to a dark blue lanyard. In the background, a person wearing a light blue dress shirt and a blue and white striped tie is visible, though slightly out of focus.

Lanyards have been popular for decades. We just never stop needing them in business and day to day use.

In case you don't know what a lanyard is from the image above: A lanyard is a length of material that is sewn in a loop and then fitted with a hook or a clip on the end, this is worn around the neck like a necklace with your ID badge or keys hanging from the end fitting. Lanyards are made from various materials however polyester is the big favorite among companies looking for something comfortable and affordable at the same time.

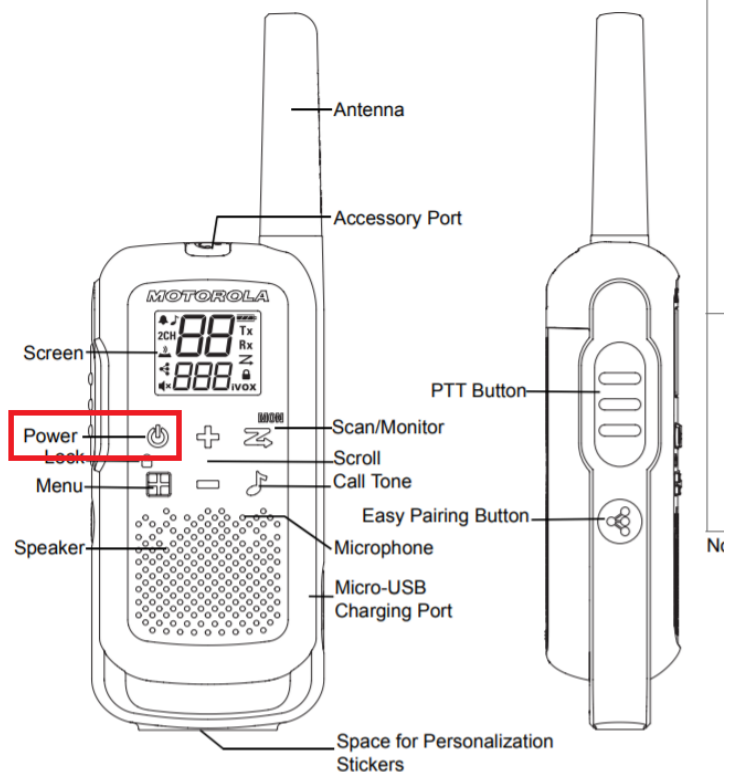
on receiving an incoming call,
establish a communication when a
user presses at least one key,

The accused product comprises a central processing unit (e.g., SoC or processor of the accused product) which practices on receiving an incoming call, establish a communication when a

user (e.g., a user of the accused product) presses at least one key (e.g., Power key).

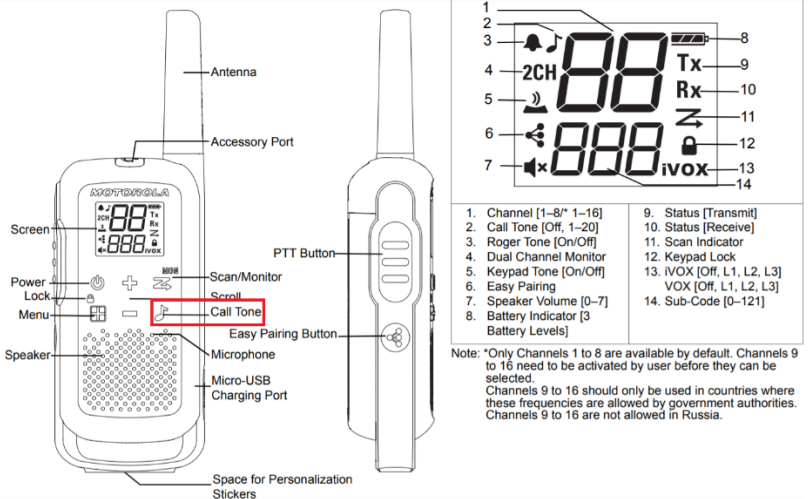
As shown, the user can receive incoming calls only when the user presses the power key to power on the device and when the PTT button is in released state.

Radio Control Buttons and Display



https://www.motorolasolutions.com/content/dam/msi/docs/products/two-way-radios/consumer/t62/t62_user_manual.pdf

	<p><u>Turning your Radio On and Off</u></p> <p><u>Press and hold the Power button to turn the radio on or off.</u></p> <ol style="list-style-type: none"> 1. In the on position, the radio chirps and briefly shows all feature icons available on the radio. 2. The display screen then shows the current channel, code, and all features that are enabled. <p>https://www.motorolasolutions.com/content/dam/msi/docs/products/two-way-radios/consumer/t62/t62_user_manual.pdf</p> <p>Talking and Listening</p> <p>All radios in your group must be set to the same channel and Sub-Code in order to communicate.</p> <ol style="list-style-type: none"> 1. Hold your radio 2–3 cm from your mouth. 2. Press and hold the PTT button while speaking. The Transmit Tx icon appears on the display. 3. <u>Release the PTT button. You can now receive incoming calls.</u> When you do, the Receive Rx icon appears on the display. <p>For maximum clarity, hold the radio 2 to 3 cm away and avoid covering the microphone while talking.</p> <p>https://www.motorolasolutions.com/content/dam/msi/docs/products/two-way-radios/consumer/t62/t62_user_manual.pdf</p>
<p>and when the user presses at least one key when there is no incoming call, call at least one predetermined telephone address,</p>	<p>The accused product comprises a central processing unit (e.g., SoC or processor of the accused product) which practices such that when the user (e.g., a user of the accused product) presses at least one key (e.g., a call tone key, PTT button, etc.) when there is no incoming call, call at least one predetermined telephone address (e.g., calling a telephone with same channel and sub-code).</p>



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Setting and Transmitting Call Tones

Your radio can transmit different call tones to other radios in your group so you can alert them that you want to talk. Your radio has 20 call tones for you to choose from.

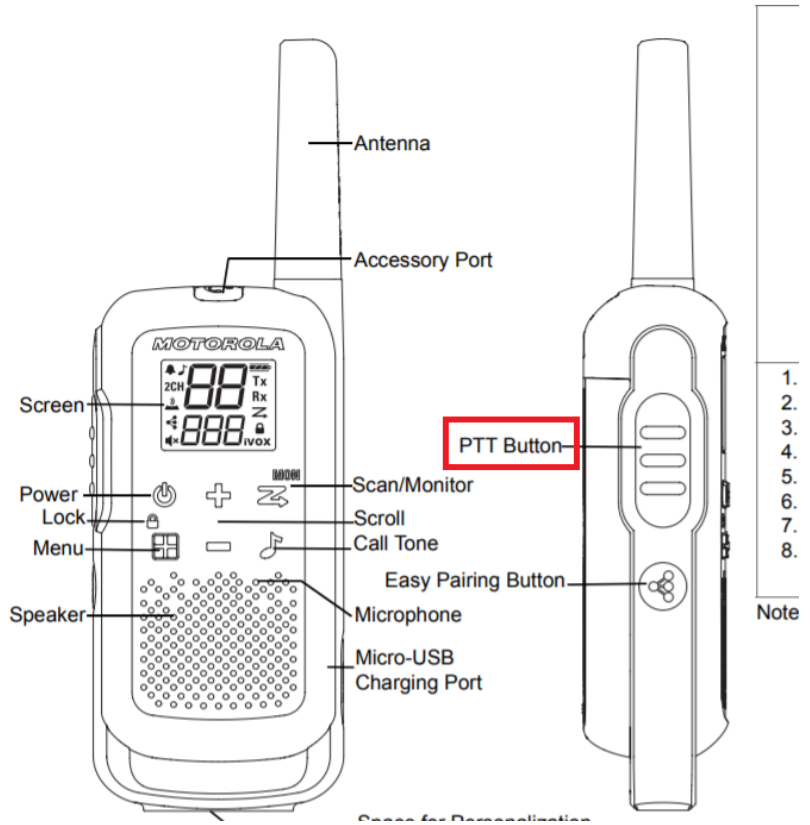
To set a call tone:

1. Press Menu until the Call Tone icon appears. The current call tone setting will flash.
2. Press or to change and listen to the call tone.
3. Press the PTT button to exit menu or Menu to continue set up.

In order to transmit your call tone to other radios, set up the same channel and Sub-Code on your radio and press Call Tone.

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Radio Control Buttons and Display



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Talking and Listening

All radios in your group must be set to the same channel and Sub-Code in order to communicate.

1. Hold your radio 2–3 cm from your mouth.
2. Press and hold the PTT button while speaking. The Transmit Tx icon appears on the display.
3. Release the PTT button. You can now receive incoming calls. When you do, the Receive Rx icon appears on the display.

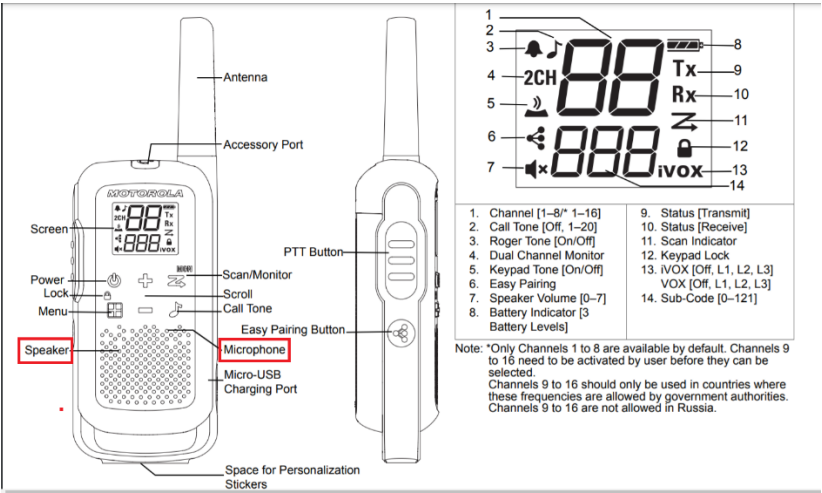
For maximum clarity, hold the radio 2 to 3 cm away and avoid covering the microphone while talking.

https://www.motorolasolutions.com/content/dam/msi/docs/products/two-way-radios/consumer/t62/t62_user_manual.pdf

wherein a microphone is located on the radiotelephone and the microphone and the speaker are designed to let the user use the radiotelephone to communicate without moving said radiotelephone from said rest position when said radiotelephone is worn around the neck of the user.

The accused product comprises the elements such that a microphone (e.g., microphone of the accused product) is located on the radiotelephone (e.g., the accused product) and the microphone (e.g., microphone of the accused product) and the speaker (e.g., loudspeaker) are designed to let the user (e.g., a user of the accused product) use the radiotelephone (e.g., the accused product) to communicate without moving said radiotelephone (e.g., the accused product) from said rest position when said radiotelephone is worn around the neck (e.g., the accused product with lanyard) of the user.

As shown below, the accused product comprises a microphone and a speaker. Upon information and belief, a user can communicate without moving the accused product from a rest position when used with a lanyard.



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https://video.motorolasolutions.com/detail/video/5728443016001/talkabout-t62-walkie-talkies-keep-you-in-touch-while-you-discover?_ga=2.7544370.1675183981.1636526248-552815545.1636526248



What Is A Lanyard? 5 Favorite Uses

Lanyards have been popular for decades. We just never stop needing them in business and day to day use.

What Is A Lanyard?

In case you don't know what a lanyard is from the image above: A lanyard is a length of material that is sewn in a loop and then fitted with a hook or a clip on the end, this is worn around the neck like a necklace with your ID badge or keys hanging from the end fitting. Lanyards are made from various materials however polyester is the big favorite among companies looking for something comfortable and affordable at the same time.

<https://www.lanyardsusa.com/knowledge/what-is-lanyards>

10. These allegations of infringement are preliminary and are therefore subject to change. For instance, there are other of Defendant's products that infringe.

11. Motorola has and continues to induce infringement. Motorola has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., wireless communication products/devices) such as to cause infringement of one or more of claims 1–15 of the '826 patent, literally or under the doctrine of equivalents. Moreover, Motorola has known of the '826 patent and the technology underlying it from at least the date of issuance of the patent or the date of the filing of this lawsuit.

12. Motorola has and continues to contributorily infringe. Motorola has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., wireless communication products/devices) such as to cause infringement of one or more of claims 1–15 of the '826 patent, literally or under the doctrine of equivalents. Moreover, Motorola has known of the '826 patent and the technology underlying it from at least the date of issuance of the patent or the date of the filing of this lawsuit.

13. Motorola has caused and will continue to cause Ember damage by direct and indirect infringement of (including inducing infringement of) the claims of the '826 patent.

IV. JURY DEMAND

Ember hereby requests a trial by jury on issues so triable by right.

V. PRAYER FOR RELIEF

WHEREFORE, Ember prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '826 patent;

- b. award Ember damages in an amount sufficient to compensate it for Defendant's infringement of the '826 patent in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award Ember an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award Ember its attorneys' fees, expenses, and costs incurred in this action;
- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award Ember such other and further relief as this Court deems just and proper.

DATED: November 30, 2021

Respectfully submitted,

RAMEY & SCHWALLER, LLP

/s/William P. Ramey, III

William P. Ramey, III (*pro hac vice anticipated*)

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